

10. CLIMATE AND THE CONSTITUTION #1

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Former Senator Schmitt Faults Motivations for Climate Legislation, Loan Guarantees, and Regulation

Americans should think long and hard about their children's future before giving up liberties and incomes to politicians in Washington and at the United Nations in the name of "doing something" about climate change. Given how little we actually know about climate, as well as great uncertainties in what we do know, the President, regulators, and Congress have chosen an extraordinarily dangerous path of unconstitutional usurpation of the rights of the people and the constitutionally reserved powers of the States.

Climate change assumptions rather than facts, and computer modeling rather than real-world observations, underpin the Government's efforts to restrict American liberties and confiscate trillions of dollars of American income. The scientific rationale behind this proposed massive intrusion into American life requires more than a "consensus" of like-minded climate analysts and bureaucrats. It needs to be right.

Recent disclosures and admissions of scientific misconduct by the United Nations and advocates of the human-caused global warming hypothesis shows the fraudulent foundation of this much-ballyhooed, but non-existent scientific consensus about climate. Supposedly "scientific" advocates ac-

tually used a mathematical trick to hide a real decline in global temperature between 1961 and 2000. Still, the Environmental Protection Agency, the Department of Energy, the Securities and Exchange Commission, and other Government agencies persist in over-stepping their regulatory authority to jam climate related requirements into our lives and economy at the expense of liberty, jobs, and incomes. Federal control of energy production and use, advocated by special "climate" interests, will have a vanishingly small effect on slowing three and a half centuries of very slow, erratic, but natural global warming.

Prudent protection of local environments by the States and the people has justification in the 9th Amendment's protection of natural rights, including "Life, Liberty and the Pursuit of Happiness" as formalized in the Declaration of Independence. Further, the 10th Amendment leaves to the States all governance responsibility for environment as no direct or indirect mention of it exists in the Constitution. A long-term federal and commercial agenda to gather power and profit in the name of "environment" at the expense of liberty, therefore, has no moral or constitutional foundation. Only research on climate and other aspects of the earth sciences and engineering find justification in

the Constitution by virtue of a strong constitutional foundation in the Preamble's mandated promotion of the "common Defence and general Welfare." [See **Essay No. 35**]

The constitutional relationship between climate-related taxation and regulation, on the one hand, and national security and economic health, on the other, demands close examination. Meeting the constitutional requirement in the Preamble and Articles I to "provide for the common Defence and the general Welfare" requires a strong economy and ready access to abundant energy. Efforts to unconstitutionally limit energy production and tax carbon emissions would clearly adversely affect the economy and thereby limit the Nation's ability to counter potential adversaries or direct attacks. The President and Congress already have intentionally and aggressively weakened the nation's economy and undermined the general welfare by focusing recession recovery on deficit spending, a weak dollar, more heavy-handed regulations, and future tax increases. A carbon emissions cap and tax on energy production and use further jeopardizes the economy and our ability to respond to security threats or to add new jobs.

Trying to "do something" about the current slow, long-term warming in Earth-surface temperatures will not work against natural climate forces. When Americans realize what liberties have been lost in this unconstitutional power grab, we will deeply regret that we did not just prepare for natural climate change rather than trying to stop the unstoppable. Our focus should be on producing more energy to maintain economic growth, to raise worldwide living standards and, where necessary, deal with the actual effects of natural climate change whether warming or cooling. We should never limit growth in energy use with its associated improvements in human conditions and standards of living.

Critical differences in scientific approach exist between scientists who observe weather and climate and those who attempt to model nature's complexities in computers. Those who observe the natural, economic, and sociological aspects of climate change are "realists". Too many modelers, on the other hand, have become office-bound "tinkerers" who believe complex mathematics and parameter tweaking can accurately forecast long-term changes in climate—Earth's most complex natural system. Many of the tinkerers also have let ideological emotions and advocacy cloud their scientific objectivity.

Observations of natural variations in atmospheric and oceanic temperatures, gas concentrations, and currents only provide clear indications of how, but not when, climate will change. Historical and geological records illustrate the high levels of uncertainty in any forecast of either the direction or the timing of future climate trends. Climate forecasts based on computer models have proven to be unsuccessful due to the great number and great complexity of critical variables, some of which, like the effects of water vapor and clouds, so far defy mathematical definition. Little wonder that climate models fail, both in replication of past conditions and in forecasting the future.

Computer models of global climate just do not work. For example, the models' unanimous predictions do not match actual measurements of temperatures in the troposphere (lower 0-18 miles of the atmosphere, depending on latitude). According to the models, the troposphere should have warmed significantly in response to rising levels of atmospheric carbon dioxide. On the contrary, the troposphere has remained little changed during the last 50 years during which satellite and balloon-borne measurements of temperature and continuous direct

measurement of carbon dioxide levels became available. Models cannot truly deal with the realities of weather, that is, evaporation, convection, clouds, rain, wind variations, ocean heat storage and currents, and all the other pathways in which nature inexorably moves heat from warm regions to cold.

So, what should we do now about climate change, if anything? We must prepare to adapt to inevitable change, however unpredictable it may seem. We can recognize that production and use of our own domestic oil, gas, coal, and nuclear resources buys us time to meet these challenges and, at the same time, preserve our liberty. We can develop far better surface and space observational techniques and use them consistently over decades to better understand the science of our Earth. On political time scales, we can quit taking actions with unknown unintended consequences. We can choose sustained research and development of energy alternatives, those with clear paths to commercialization, rather than continue tax dollar subsidies and loan guarantees for premature or flawed introduction of politically motivated concepts. We can provide investment and business environments that will mature new sources of energy, particularly through reduction of personal and business income tax rates.

Instead, the President now proposes loan guarantees, rather than regulatory and legal reform, to add more nuclear power to the 20% currently meeting electrical power demand in the United States. His proposal for the Government to guarantee \$8.33 billion in loans, allegedly to encourage a single power company (Southern) to build two nuclear fission plants, reflects cynical manipulation of the facts. First of all, such a proposal and targeted loan guarantees in general are unconstitutional, violating the equal pro-

tection rights of other Americans provided by the 5th and 14th Amendments. Secondly, the proposal can always be withdrawn and does not include an elimination of those unnecessary regulations, judicial reviews, and barriers to nuclear waste disposal or reprocessing that make raising private capital for nuclear plants essentially impossible. Thirdly, the President hopes that his proposal, whether or not ever consummated, will garner support for similar loan guarantees to otherwise uneconomic wind, solar energy, and biofuel plants and for passage of unworkable and scientifically invalid climate change legislation. Fourth, the proposal would give the Government, once again, effective financial control of another segment of the American economy while distorting competition, capital markets, and good business practice. Finally, Government loan guarantees ultimately constitute a liability held by the American taxpayer. Don't we have enough of such liabilities already?

In addition to regulatory and legal reform to encourage private investment in nuclear power, the Government should help research institutions and industry develop nuclear waste reprocessing and/or reuse technology, terminated under the Carter Administration. Also, such cooperative research and technology development efforts should advance the capability to transform unusable portions of nuclear waste into stable or short-lived radioisotopes, using advance fusion processes. This type of Government support at least would be constitutional.

Instead of being ideologically greedy and ignoring good science and economics, we can start being wise and truly concerned about our children and their children and the society in which they will live. That concern needs to be manifested in the 2012 election of Congressmen and women and a President

with common sense and a strong perception of reality relative to the needs of America.

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